

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: WNTT, Inc.)
a/k/a Aileen S. Craft) Claiborne County
Dist. 1, Map 96H, Group B, Control Map 96H,))
Parcel 9)
Commercial Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$5,200	\$17,000	\$22,200	\$8,880

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 19, 2007 in Tazewell, Tennessee. The taxpayer was represented by Aileen S. Craft and Philip Mabe. The assessor of property was represented by staff member Judy Myers and Ryan Cavanah, RES, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 93' x 76' lot improved with a 683 square foot concrete block building constructed in 1957 which houses a radio station. Subject property is located at 15 Blue Top Road, less than one block off of Highway 33, the main thoroughfare in Tazewell.

The taxpayer contended that subject property should be valued at \$11,900 as it was prior to the 2007 countywide reappraisal program.¹ In support of this position, the taxpayer essentially argued that subject property experiences a diminution in value because of its location in a area susceptible to flooding and the physical condition of the building. In addition, the taxpayer asserted that it would cost only \$10,000 to construct a new building. Finally, the taxpayer challenged various calls on the property record card.

The assessor contended that subject property should be valued at \$35,100. In support of this position, the testimony and written analysis of Ryan Cavanah, RES was introduced into evidence. Mr. Cavanah basically prepared a cost approach which he maintained supports a value indication of \$35,100.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

¹ Claiborne County was last reappraised in 2002.

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$22,200 based upon the presumption of correctness attaching to the decision of the Claiborne County Board of Equalization.

Since the taxpayer is appealing from the determination of the Claiborne County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that the taxpayer introduced insufficient evidence to substantiate its contention of value. For example, no vacant land sales or building estimates were introduced into evidence. Moreover, Ms. Craft testified that the taxpayers will for all practical purposes serve as the general contractor and do much of their own labor when constructing a building. Thus, it is unclear what costs are even included in the taxpayer's estimated cost to construct a new building.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . . was too high. In support of that position, she claimed that. . . the use of surrounding property detracted

from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds that the Assessment Appeals Commission has historically rejected taxpayers' attempts to establish a lower value by simply attacking portions of the property record card. For example, in *Devere M. Foxworth* (Polk Co., Tax Year 2001) the Commission reasoned in pertinent part as follows:

The problem with evaluating a property tax assessment on the basis of the pieces of the assessor's record is at least two-fold. First, the pieces may not compare one to another i.e., the value attributed by the CAAS system to a typical component may not represent the true contribution of the component as represented in the subject property. Second, the pieces are part of a whole that is merely a computer generated approximation of the legal standard of fair market value. The result for a particular property in the assessor's system may or may not yield fair market value. The appeal process therefore looks to more traditional methods of individual property valuation in order to be sure the legal standard has been met.

Final Decision and Order at 1.

Based upon the foregoing, the administrative judge would normally find it unnecessary to even address the assessor's proof due to the taxpayer's failure to establish a prima facie case. In this appeal, however, Mr. Cavanah argued for a significantly higher value.

Respectfully, the administrative judge finds that Mr. Cavanah was unable to inspect subject property. Given Ms. Craft's testimony concerning the condition of subject property, the administrative judge finds an inspection critical in order to arrive at a reliable conclusion of value.

As noted at the hearing, the assessor should file an appropriate motion to secure an opportunity to inspect subject property in the event the parties are unable to agree on such a request through the discovery process.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$5,200	\$17,000	\$22,200	\$8,880

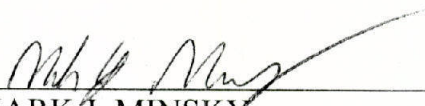
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Philip Mabe
Ms. Aileen S. Craft
Kay Sandifer, Assessor of Property